

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015040188 (Dismissed)
v.	
PANAMA-BUENA VISTA UNION SCHOOL DISTRICT,	
PANAMA-BUENA VISTA UNION SCHOOL DISTRICT,	OAH Case No. 2015031164
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING STUDENT’S REQUEST TO DISMISS CASE NUMBER 2015040188, AND CONFIRMING TIMELINE FOR PREHEARING CONFERENCE AND DUE PROCESS HEARING IN CASE NUMBER 2015031164

On March 25, 2015, the Panama-Buena Vista Union School District filed a complaint in Office of Administrative Hearings case number 2015031164 naming Student. District’s Case seeks a finding that its January and February 2015 assessments were appropriate, and therefore Student is not entitled to independent educational evaluations at public expense.

On April 3, 2015, Student filed a complaint in OAH case number 2015040188, naming District. Student’s case included both expedited and non-expedited issues.

By Order dated April 8, 2015, OAH consolidated the two matters, vacated the dates in case number 2015031164, and held that the 45-day timeline for issuance of the decision in the hearing in the consolidated cases shall be based on the date of the filing of the complaint in OAH case number 2015040188.

On April 22, 2015, Student dismissed the expedited portion of her case.

On August 12, 2015, Student amended the complaint in OAH case number 2015040188, thereby re-setting all timelines, and re-alleging both expedited and non-

expedited issues. The expedited portion of the hearing is currently scheduled to be heard on September 10, 14 and 15. The non-expedited hearing is currently set to commence on October 6, 2015, with a prehearing conference on September 28, 2015.

On September 2, 2015, Student filed a request to dismiss the entirety of her case number 2015040188, as to both the expedited and non-expedited matters, without prejudice. The request is granted.

This matter will proceed only as to District's case number 2015031164. However, in accordance with OAH's April 8, 2015 consolidation order, the 45-day timeline for issuance of the decision in the hearing shall be based on the date of the filing of the complaint in OAH case number 2015040188, and as that complaint was amended on August 12, 2015.

Therefore the expedited hearing currently scheduled to be heard on September 10, 14 and 15, 2015 is vacated. The hearing dates for the non-expedited consolidated hearing currently set to commence on October 6, 2015, with a prehearing conference on September 28, 2015, are confirmed. All of Student's issues are dismissed, and the hearing shall proceed on those dates only as to District's issues.

By reason of the dismissal of Student's case number 2015040188, District's motion to dismiss Student's allegations on the grounds of res judicata and collateral estoppel is moot. However, as Student's dismissal of the allegations is without prejudice, District may renew its motion should Student re-file.

ORDER

1. Student's September 2, 2015 request to dismiss the entirety of her case number 2015040188, as to both the expedited and non-expedited matters, without prejudice, granted.
2. In accordance with OAH's April 8, 2015 consolidation order, the 45-day timeline for issuance of the decision in the hearing shall be based on the date of the filing of the complaint in OAH case number 2015040188, and as that complaint was amended on August 12, 2015.
3. The expedited hearing currently scheduled to be heard on September 10, 14, and 15, 2015 is vacated.
4. The hearing dates for the non-expedited consolidated hearing currently set to commence on October 6, 2015, with a prehearing conference on September 28, 2015, are confirmed.
5. All Student's issues are dismissed, and the hearing shall proceed on those dates only as to District's issues.

6. District's motion to dismiss Student's allegations on the grounds of res judicata and collateral estoppel is denied.

DATE: September 3, 2015

/s/

JUNE R. LEHRMAN
Presiding Administrative Law Judge
Office of Administrative Hearings